No. 18704

IN THE

# United States Court of Appeals

FOR THE NINTH CIRCUIT

---

DISTRICT DIRECTOR OF INTERNAL REVENUE,

*Appellant,*

vs.

LONG BEACH JUNIOR CHAMBER OF COMMERCE,

*Appellee.*

---

On Appeal From the Judgment of the United States District Court for the Southern District of California

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## BRIEF FOR THE APPELLANT.

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## BRIEF FOR THE APPELLANT.

---

### Opinion Below.

The District Court wrote no opinion and its findings of fact and conclusions of law (R. 14-19) have not been officially reported.

### Jurisdiction.

This appeal involves the federal admissions tax. On October 16, 1959, taxpayer paid $732.84 in federal admissions tax to the Commissioner of Internal Revenue relating to performances during the period January 29, 1959 to February 3, 1959. (R. 17-18.) A claim for refund of this amount was filed by taxpayer on April 7, 1960. (R. 18.) More than six months having elapsed since the filing of its claim, taxpayer brought a

timely suit for refund in the District Court. (R. 18.) Jurisdiction was conferred upon the District Court by 28 U.S.C., Section 1346(a)(1). The judgment of the District Court allowing taxpayer's claim in full was entered on January 15, 1963. (R. 21.) Notice of appeal was filed on March 15, 1963. (R. 21.) Jurisdiction is conferred on this Court by 28 U.S.C., Section 1291.

## Questions Presented.

Whether the taxpayer, a chamber of commerce, is a "civic or community membership association" within the meaning of Section 4233(a)(3) of the Internal Revenue Code of 1954, so as to qualify for exemption from the admissions tax imposed by Section 4231.

## Statute Involved.

Internal Revenue Code of 1954:

SEC. 4231 [as amended by Sec. 131(a) of the Excise Tax Technical Changes Act of 1958, P.L. 85-859, 72 Stat. 1275]. IMPOSITION OF TAX.

There is hereby imposed:

(1) *General.*—

(A) *Single admission.*—A tax of 1 cent for each 10 cents or major fraction thereof of the amount in excess of $1 paid for admission to any place.

(B) *Season ticket.*—In the case of a season ticket or subscription for admission to any place, a tax of 1 cent for each 10 cents or major fraction thereof of the amount paid for such season ticket or subscription which is in excess of $1 multiplied by the number of admissions provided by such season ticket or subscription.

(C) *By whom paid.*—The taxes imposed under subparagraphs (A) and (B) shall be paid by the person paying for the admission

* * *

(26 U.S.C. 1958 ed., Sec. 4231.)

SEC. 4233 [as amended by Sec. 1 of the Act of April 16, 1959, P.L. 85-380, 72 Stat. 88]. EXEMPTIONS.

(a) *Allowance.*—No tax shall be imposed under section 4231 in respect of:

* * *

(3) *Certain musical or dramatic performances.*—Any admissions to musical or dramatic performances conducted by a civic or community membership association if no part of the net earnings thereof inures to the benefit of any stockholders or members of such association.

* * *

(26 U.S.C. 1958 ed., Sec. 4233.)

## Statement.

All of the facts in this case were stipulated. (R. 10-14.) Pursuant to that stipulation, the District Court made findings of fact as follows (R. 14-18):

Taxpayer is a citizen of the United States and resides in the County of Los Angeles, in the Central Division of the Southern District of California. (R. 15.)

The Long Beach Junior Chamber of Commerce is a corporation duly organized and authorized to operate under the laws of the State of California and authorized to do business in the State of California, having its principal office in the County of Los Angeles, in the Cen-

tral Division of the Southern District of California. (R. 15.)

The purpose of the Long Beach Junior Chamber of Commerce as set forth in the Constitution and By-Laws of the chamber of commerce is as follows (R. 15-16):

> Section 1. The purpose of this organiztion shall be to provide the younger business and professional men of the City of Long Beach a medium for training in citizenship and Chamber of Commerce work, to promote and publicize the civic, industrial, recreational, and educational activities of the community, to secure and disseminate accurate information relating thereto, to oppose legislation unfavorable thereto, and to promote and support legislation favorable thereto.
>
> Section 2. The organization shall be non-partisan in all respects and shall not at any time endorse any candidate or individual for public office; and it shall be the policy of this organization to refrain from endorsing or opposing any and all definitely partisan measures.

The activities of the Long Beach Junior Chamber of Commerce include the following (R. 16-17):

1. Boys Junior Olympics—An annual boys track meet sponsored by taxpayer.

2. Wings Over the World—An activity designed to publicize aviation.

3. Christmas Tree Lighting Contest.

4. Operation Phone Santa—Members of taxpayer organization take calls from children to Santa Claus during the Christmas season.

5. My True Security—A contest in which a prize is awarded to the best essay on an individual's true security.

6. Good Citizenship Awards.

7. The Miss Welcome to Long Beach Contest—A contest to determine which girl will welcome beauty contestants to Long Beach for the Miss Universe Contest.

8. Christmas Cheer Clearing House—Food and gifts are gathered and distributed to needy families during Christmas season.

9. The City of Long Beach and other local governmental agencies have requested that the taxpayer conduct social surveys in the area, which taxpayer has done.

10. The Long Beach Chamber of Commerce has sponsored programs to combat juvenile delinquency such as having the Wink Martindale Television Show held at the Long Beach Municipal Auditorium for a period of several weeks. These shows were well publicized in Long Beach schools prior to their showing.

11. The following entertainers have appeared in shows sponsored by taxpayer; Duke Ellington, Fred Waring, Spade Cooley and others.

In the conducting and performance of the foregoing programs no profit, commission or bonus has inured to the benefit of any member of the Long Beach Junior Chamber of Commerce. (R. 17.)

Prior to the taxable period the taxpayer, Long Beach Junior Chamber of Commerce, had applied for and obtained an exemption under Section 101(7) of the 1939 Code, now Section 501(c)(6) of the 1954 Code. (R. 17.)

On January 29 and 30, and February 1, 2 and 3 of 1959, the taxpayer sponsored at the Long Beach California Municipal Auditorium an American version of the Oberammergau Passion Play. The performance was presented by a professional theatrical group, Consolidated Concerts Corporation, 30 Rockefeller Plaza, New York, New York, for a consideration of $7,500. The net proceeds, if any, after payment of this consideration and other necessary expenses would go to the Long Beach Junior Chamber of Commerce "Youth Activities Fund." (R. 17-18.)

The officers of the Long Beach Junior Chamber of Commerce upon the advice of legal counsel set aside a portion of the monies received from proceeds of ticket sales for an admissions tax. This was done under advisement by the Internal Revenue Service that the organization would be liable for the tax. The sum of $732.84 was paid under protest to the Internal Revenue Service on October 16, 1959, and a claim for refund of that sum was filed by the taxpayer on April 7, 1960. More than six months have elapsed since the filing of the claim for refund. (R. 18.)

Based on these facts, the District Court concluded that taxpayer was a "civic or community membership association" within the meaning of Section 4233(a)(3) of the 1954 Code, and that, as such, it was exempt from the admissions tax in respect to the sale of tickets to performances of the Oberammergau Passion Play. (R. 18-19.) Judgment was entered for taxpayer in the amount of $732.84 (R. 20-21), and it is from that judgment that the instant appeal is prosecuted.

## Specification of Errors Relied Upon.

1. The District Court erred as a matter of law in concluding that taxpayer was a "civic or community membership association" within the meaning of Section 4233(a)(3) of the 1954 Code.

2. The District Court consequently erred as a matter of law in concluding that taxpayer was exempt from admissions tax under Section 4233(a)(3) in respect to the sale of tickets to a play which it sponsored.

3. The District Court erred in entering judgment for taxpayer.

## Summary of Argument.

The District Court clearly erred in holding that the taxpayer is a "civic or community membership association" within the meaning of Section 4233(a)(3) of the Internal Revenue Code of 1954, which exempts certain "musical or dramatic performances conducted" by such associations from the admissions tax imposed by Section 4231. Tax exemption provisions must of course be strictly construed. Read in the light of its legislative history, and in conjunction with cognate provisions of the Internal Revenue Code, the term "civic or community membership association" as used in Section 4233(a)(3) has reference only to those non-profit membership associations which are organized and operated primarily for the purpose of conducting musical or dramatic performances for the cultural benefit of the members of the association, such as civic music associations, whose members pay annual dues for the right to attend a series of concerts. But the exemption does not apply to every type of civic association which sponsors a musical or dramatic performance, albeit the in-

come derived by the association from such activity is used to further the general civic or community purposes of the association. Congress has expressly exempted "civic leagues" and "chambers of commerce" from the income tax (Section 501(c)(4) and (6)). Had it intended also to exempt dramatic performances sponsored by such organizations from the admissions tax, it could readily and simply have said so.

It is plain from the undisputed facts in this case that the taxpayer association does not qualify as a "civic or community membership association," within the purview of Section 4233(a)(3). The taxpayer's primary purpose and activities were not those of a cultural membership association, but those of a typical chamber of commerce; and the dramatic performance for which it here seeks exemption from the admissions tax was a performance to which the non-membership public was invited and charged an admission price, not one conducted for the benefit of the taxpayer's membership. In holding that the performance in question was immune from the admissions tax, the District Court has extended the exemption provision of Section 4233(a)(3) far beyond the narrow scope contemplated by Congress in enacting that section. The decision below accords taxpayer an unfair competitive advantage, not intended by Congress, over other organizations conducting dramatic performances for public audiences and subject to the admissions tax.

## ARGUMENT.

### The District Court Erred in Holding That Taxpayer Was a "Civic or Community Membership Association" Within the Meaning of Section 4233(a)(3) of the 1954 Code.

#### A. Introductory.

This appeal turns on a narrow question of statutory interpretation. Section 4233(a)(3) of the 1954 Code *supra,* exempts from the admissions tax certain "musical or dramatic performances conducted by a civic or community membership association if no part of the net earnings thereof inures to the benefit of any stockholders or members of such association." Taxpayer, the Long Beach Junior Chamber of Commerce, maintained in the District Court that a dramatic performance by paid professional actors under its sponsorship was exempt from admissions tax under Section 4233 (a)(3). The District Court, without opinion, concluded that taxpayer was correct and entered judgment for taxpayer in the amount claimed.

Presumably, the District Court agreed with taxpayer's contention that under the "plain meaning" of Section 4233(a)(3), a chamber of commerce qualifies as a "civic or community membership association." Assuredly, if words in a statute were to be interpreted divorced from context and without regard to the purpose of the statute revealed in the legislative history, there would be no basis for this appeal. Upon close examination of all the terms used in Section 4233(a)(3) and its relation to other exemption provisions, however,

doubts arise as to the propriety of a broad construction.[1] Turning to the extensive legislative history (1936-1958) of Section 4233(a), these doubts are readily confirmed. What emerges is a clearly expressed Congressional purpose to limit the exemption to organizations primarily, if not exclusively, devoted to musical or dramatic productions for the benefit of their members. Any organization with other primary purposes, merely sponsoring musical or dramatic performances for fund-raising or other incidental purposes, cannot qualify as a "civic or community membership association" within the meaning of Section 4233(a)(3).

The primary purposes and functions of the Long Beach Junior Chamber of Commerce are matters not in dispute. As its by-laws reveal and its activities confirm, taxpayer promotes and publicizes a particular community. (R. 15-17.) These basic objectives are furthered in many ways, ranging from social surveys to sponsorship of such miscellaneous events as an essay contest, a Christmas tree lighting contest, a beauty contest and a variety show. (R. 16-17.) This case involves the admissions tax which taxpayer paid over in connection with its sponsorship of a version of the Oberammergau Passion Play performed by professional actors from New York. (R. 17-18.) On these facts, the Long Beach Junior Chamber of Commerce may qualify as a "civic or community membership associa-

[1]It is a familiar rule of statutory construction that tax exemptions are matters of legislative grace and are therefore to be strictly construed. *Better Business Bureau v. United States,* 326 U. S. 279; *Cornell v. Coyne,* 192 U. S. 418, 431-432; *Helvering v. Northwest Steel Mills,* 311 U. S. 46, 49; *Helvering v. Ohio Leather Co.,* 317 U. S. 102, 106; *United States v. Stewart,* 311 U. S. 60, 71; *Lindstrom v. Commissioner,* 149 F. 2d 344, 346 (C. A. 9th).

tion" in a broad sense, but it clearly is not an organization primarily devoted to conducting musical or dramatic performances for its members, and it is only the latter, we contend, who qualify under Section 4233(a)(3).

**B. The Asserted "Plain Meaning" of Section 4233(a)(3).**

In the construction of tax statutes, "most words admit of different shades of meaning, susceptible of being expanded or abridged to conform to the sense in which they are used." *Helvering v. Stockholms etc. Bank,* 293 U.S. 84, 87. "The word to be defined, in common with words generally, will have a color and a context that will vary with the setting." *Hawks v. Hamill,* 288 U.S. 52, 57.

Whether the term "civic or community membership association" calls for a broad or a narrow interpretation should be analyzed preliminarily in the context of the sentence of which it is a part. First, Section 4233(a)(3) does not apply to performances sponsored by civic or community membership associations, but only to performances "conducted" by such associations. The use of the more restricted term "conducted" indicates a closer relationship between the production and the association than mere sponsorship. Second, the exemption applies only to a civic or community "membership" association. In light of the fact that all associations have members, the addition of the adjective "membership" clearly implies that some civic or community associations are not intended to be exempt.[2] Although the full significance of these terms of limitation is to

[2]Significantly, Section 4233 exempts a wide variety of associations, but the term "membership association" appears only in Section 4233(a)(3).

be grasped only upon examination of the legislative history, the least which can be claimed for them at face value is a warning that Section 4233(a)(3) is a narrow-gauge exemption provision not susceptible of an easy, broad construction.

Moreover, in the process of ascertaining legislative intent, "There is need to keep in view also the structure of the statute, and the relation, physical and logical, between its several parts." *Duparquet Co. v. Evans,* 297 U.S. 216, 218. Under Section 4233(a)(7) (Appendix, *infra*), there is exempted "Any admission to an amateur performance presented and performed by a civic or community theatre group or organization * * *." An amateur theatrical production of a community theatre group qualifies easily as a dramatic performance "conducted" by a "civic or community membership association" if those terms as they appear in Section 4233(a)(3) are given a broad interpretation. The fact that Congress regards as necessary a special provision for those little theatre groups consequently gives rise to the inference that the Section 4233(a)(3) exemption is considerably less broad than the decision of the District Court would indicate.[3]

Moving over to the provisions exempting certain organizations from the payment of income tax, it should be noted first that Section 501(c)(6) of the 1954 Code (Appendix, *infra*) exempts "Business leagues, chambers of commerce, real estate boards, or boards of trade." It is under this provision that the Long

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[3]If the District Court's sweeping interpretation of Section 4233(a)(3) were proper, Congress logically should have dropped Section 4233(a)(7) in 1958 when it extended the scope of the former provision to "dramatic performances". Act of April 16, 1958, P. L. 85-380, 72 Stat. 88, Secs. 1 and 2.

Beach Junior Chamber of Commerce claims exemption from income tax. (R. 17.) The exemption of "Civic leagues" is separately provided for in Section 501(c)(4) (Appendix, *infra*). Although it is not suggested that there is any one-for-one correspondence between the "Civic leagues" in Section 501(c)(4) and the "civic or community membership association" in Section 4233(a)(3), it is at least relevant that Congress considered "chambers of commerce" as not included in the term "Civic leagues" and that when Congress intended to exempt chambers of commerce it referred to them by name. Whether this comparison of the terms and structure of the income tax provisions with Section 4233(a)(3) is regarded as persuasive or barely more than a straw in the wind, it does militate against a broad and flexible interpretation of the admissions tax exemption provision.

Taking all of the foregoing elements into account, it is sufficiently clear from text and context that the term "civic or community membership association" as it appears in Section 4233(a)(3) is not the proper object of any "plain meaning" approach. It is in the legislative history of Section 4233(a)(3), to which we next turn, that the key to a proper interpretation is to be found.

**C. The Proper Interpretation of Section 4233(a)(3).**

Regardless of whether taxpayer is correct in asserting that Section 4233(a)(3) has a "plain meaning," the Supreme Court has rejected time after time "a literal interpretation dogma which withholds from the courts available information for reaching a correct conclusion." *United States v. America Trucking Assns.*, 310 U.S. 534, 544; *Lynch v. Overholser,* 369 U.S.

705, 710; *Ozawa v. United States,* 260 U.S. 178, 194. "It would be anomalous to close our minds to persuasive evidence of intention on the ground that reasonable men could not differ as to the meaning of the words." *United States v. Dickerson,* 310 U.S. 554, 562. More pointedly, "If Congress has been accustomed to use a certain phrase with a more limited meaning than might be attributed to it by common practice, it would be arbitrary to refuse to consider that fact when we come to interpret a statute." *Boston Sand Co. v. United States,* 278 U.S. 41, 48.

Upon examination of the legislative history of Section 4233(a)(3), it is immediately apparent that the phrase "civic or community membership association" is a prime example of words used by Congress with a more limited meaning than they normally would have. The legislative materials, particularly the Committee Reports—"congressional purpose explicitly revealed" (*Commissioner v. Bilder,* 369 U.S. 499, 502)—show that the only organizations intended to be exempt are those devoted primarily, if not exclusively, to conducting musical or dramatic performances for their members. The evidence is all one way; there is no basis for any inference that Congress wished to exempt associations with other primary purposes, sponsoring musical or dramatic performances for fund-raising or other incidental purposes. Originally—in 1936—Congress desired to exempt only concert courses or series which were conducted by such membership associations as orchestras and choral societies. Although the scope of the exemption was increased by administrative interpretation and by Congress in 1958 (to include "musical and dramatic performances"), the touchstone of the

exemption has remained the same, i.e., the nature of the organization involved. Consistent with this proposition, Section 4233(a)(3) presently contains the same words of limitation (e.g., "conducted" and "membership") with which it began.

Briefly reviewing the legislative history, Section 500(b) of the Revenue Act of 1926, c. 27, 44 Stat. 9, as amended, exempted from the admissions tax proceeds which inured to the benefit of, among others, "societies or organizations conducted for the sole purpose of maintaining symphony orchestras * * *." This provision was amended by Section 801 of the Revenue Act of 1936, c. 690, 49 Stat. 1648, which added an exemption for admissions to "concerts conducted by a civic or community membership association." As explained in the report of the Senate Finance Committee, S. Rep. No. 2156, 74th Cong., 2d Sess., pp. 31-32 (1939-1 Cum. Bull. (Part 2) 678, 699):

> Your committee has added to the House bill a provision exempting from the admissions tax *admissions paid to nonprofit community, civic, or membership concert courses or series.* The organizations furnishing these courses serve a very useful purpose to many local communities. (Emphasis supplied.)

From the outset, it is clear that the exemption was intended to cover only a limited class of organizations, i.e., those conducting concert courses or series. No further delineation of legislative purpose was made until 1951. Meanwhile, Section 801 was incorporated in the 1939 Code as Section 1701(c), dropped (with all other exemptions from the admissions tax) by Section 541(b) of the Revenue Act of 1941, c. 412, 55 Stat. 687, then

restored by Section 402 of the Revenue Act of 1951, c. 521, 65 Stat. 452, which re-enacted Section 1701(c) without change. The Report in respect to the re-enactment stated (H. Conference Rep. No. 1213, 82d Cong., 1st Sess., p. 89 (1951-2 Cum. Bull. 622, 638):

> The bill restores the provisions of section 1701 (c) of the Code without change, so that admissions to *concerts conducted by a civic or community membership association (such as orchestras, choral societies, etc.)* will be exempt from tax. (Emphasis supplied.)

Here is found the most explicit manifestation of Congressional purpose to limit the exemption to specialized membership organizations devoted primarily—if not exclusively—to conducting concerts. Assuredly, Congress did not have in mind productions merely sponsored by such organizations as fraternal orders, burial societies, or chambers of commerce.

Nothing further with any real bearing on the intent of Congress appears until 1958. Section 1701(c) was re-enacted, in the meantime, as Section 4233(a)(3) of the 1954 Code. But in 1958, the Committee Reports disclose, Congress was concerned that the Internal Revenue Service was being unnecessarily restrictive in its interpretation of the word "concerts." It was not clear whether musical comedies or reviews would be ruled exempt from the admissions tax. Accordingly, it was recommended that the scope of the statute be expanded by substituting for the word "concerts" the words "musical performances." H. Rep. No. 1159, 85th Cong., 1st Sess., pp. 1-2 (1958-1 Cum. Bull. 636); S. Rep. No. 1283, 85th Cong., 2d Sess., pp. 1-2 (1958-1

Cum. Bull. 650-651). At this juncture, it may be helpful to the Court to reproduce in full the pertinent portions of the House Report (pp. 1-2):

> Present law provides an exemption from the excise tax on admissions for "concerts" conducted by nonprofit civic or community membership associations. This bill substitutes the words "musical performances" for the word "concerts" in this exemption. As a result, an exemption from the admissions tax will be available to nonprofit civic or community membership associations not only in the case of performances by symphony orchestras, bands, and vocal groups and in the case of ballets, operas, and operettas, but also in the case of musical comedies and reviews. This change is to be effective as of the first month which begins more than 10 days after the date of enactment of this bill.
>
> * * * One of the exemptions is that provided by section 4233 (a) (3) for certain concerts. This exemption is for any admissions to concerts conducted by a civic or community membership association if no part of the net earnings inures to the benefit of stockholders or members of the association.
>
> A number of nonprofit civic or community associations have assumed that this exemption applied *to all of the musical performances they conducted,* and as a result they have sold tickets tax free on this assumption. Moreover, the Internal Revenue Service has held a substantial list of musical performances, when conducted by one of these associations, to be exempt from the admissions tax

as "concerts." These include performances by symphony orchestras, bands, and vocal groups and also such performances as ballets, classical dances, operas, and light operas. Despite this, the Internal Revenue Service recently held that the term "concerts" does not include musical comedies or reviews *put on by these associations* and that as a result, such performances *when conducted by these organizations* are subject to the admissions tax.

Your committee believes that the present definition of the Service as to what constitutes a "concert" and therefore, what results in an exemption from the admissions tax when conducted by one of these nonprofit civic or community membership associations, is arbitrary and should be changed. Your committee sees no reason, for example, to exempt "light operas" *when conducted by such an association* and not to exempt a musical comedy or review which may be *presented by the same organization at its next performance.*

Your committee's bill, therefore, substitutes the words "musical performances" for the word "concerts" in the exemption from the admissions tax presently provided for nonprofit civic or community membership associations. In the case of these organizations this will provide an exemption not only in the case of all performances previously classified as "concerts" but also in the case of musical comedies and reviews. * * * (Emphasis supplied.)

* * *

Although Congress was obviously preoccupied here with the nature of the performance rather than the na-

ture of the conducting organization, the only fair construction of the Committee Reports is that Congress assumed throughout that the organizations involved were devoted primarily or exclusively to putting on or conducting the "musical performances."

It will be marked that the change recommended by the Committees was not enacted in Section 4233(a)(3). When the bill was laid before the Senate, a floor amendment was proposed by Senator Javits of New York on March 31, 1958. 104 Cong. Record, Part 5, p. 5784. Senator Javits, adverting to the New York City Center, proposed the same privilege for dramatic performances as for musical performances. Senator Case, co-sponsor of the amendment, regarded it as a "substantial contribution to the cultural life of communities all over the Nation." *Ibid.* Accordingly, the words "musical or dramatic performances" were substituted for the words "musical performances." After the amendment was accepted, Senator Hennings of Missouri urged prompt passage of the bill, referring specifically to the plight of the St. Louis Municipal Opera and the Kansas City Starlight Theatre. *Ibid.*

Not to labor the point, it should be apparent that the kinds of organizations specifically referred to by Congress over the period 1936-1958 (groups conducting concert courses or series, orchestral and choral societies, New York City Center, St. Louis Municipal Opera, Kansas City Starlight Theatre) are devoted primarily or exclusively to the fine arts. At no point did Congress evidence any intention to exempt organizations with other primary purposes who sponsor productions by outsiders for fund-raising or other incidental purposes.

Assuredly, close questions of construction may arise in the application of Section 4233(a)(3). But the legislative history establishes a virtual polarity between the kind of associations which Congress intended to exempt and the kind of organization claiming exemption in the case at bar. The District Court, in disregarding the legislative history and the words of limitation in Section 4233(a)(3) itself, compounded its error by ignoring the rule firmly established by decisions of this and other courts that tax exemption provisions are to be narrowly construed against those who seek to qualify under them.

## Conclusion.

For the reasons stated, the judgment of the District Court should be reversed.

Respectfully submitted,

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September, 1963.

## Certificate.

I certify that in connection with the preparation of this brief, I have examined Rules 18 and 19 of the United States Court of Appeals for the Ninth Circuit, and that, in my opinion, the foregoing brief is in full compliance with those rules.

Dated: 12th day of September, 1963.

RICHARD G. SHERMAN,
*Assistant U. S. Attorney.*

## APPENDIX.

Internal Revenue Code of 1954:

SEC. 501. EXEMPTION FROM TAX ON CORPORATIONS, CERTAIN TRUSTS, ETC.

(a) *Exemption From Taxation.*—An organization described in subsection (c) or (d) or section 401(a) shall be exempt from taxation under this subtitle unless such exemption is denied under section 502, 503, 504.

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(c) *List of Exempt Organizations.*—The following organizations are referred to in subsection (a):

* * * * *

(4) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

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(6) Business leagues, chambers of commerce, real-estate boards, or boards of trade, not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

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(26 U.S.C. 1958 ed., Sec. 501.)

SEC. 4233. EXEMPTIONS.

(a) *Allowance.*—No tax shall be imposed under section 4231 in respect of:

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(7) *Certain amateur theater performances.*—Any admission to an amateur performance presented and performed by a civic or community theater group or organization—if no part of the net earnings thereof inures to the benefit of any private stockholder or individual.

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(26 U.S.C. 1958 ed., Sec. 4233.)